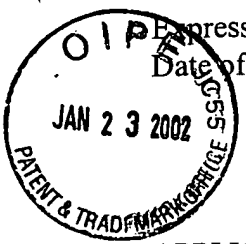


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

APPLICANT : GERHARD BENNER ET AL.

SERIAL NO. : 09/723,189

FILED : November 27, 2000

FOR : COSMETIC AND DERMATOLOGICAL LIGHT PROTECTION
FORMULATIONS IN THE FORM OF O/W MACROEMULSIONS OR O/W
MICROEMULSIONS CONTAINING SHEA BUTTER

ART UNIT : 1619

EXAMINER : M. Haghighatian

January 23, 2002

Hon. Commissioner of Patents
Washington, D.C. 20231

**PETITION TO REVIVE UNINTENTIONALLY ABANDONED
APPLICATION PURSUANT TO 37 CFR § 1.137(b)**

SIR:

Petitioner respectfully requests that the Honorable Commissioner exercise his power and restore the above-identified application to pending status, the application having been unintentionally abandoned.

According to 37 CFR § 1.137(b), which sets forth the requirements for restoring an unintentionally abandoned application to pending status:

“A grantable petition pursuant to this paragraph must be accompanied by:



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- (1) The reply required to the outstanding Office action, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional * * *; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20d(d)) required pursuant to paragraph (c) of this section.”

The Reply

With respect to requirement (1), this application was unintentionally abandoned by failure to respond to the Office Action dated May 23, 2001, on or by November 23, 2001. A response to said Office Action is being forwarded herewith.

The Petition Fee

Regarding requirement (2), the Commissioner is also authorized to charge the fee set forth in § 1.17(m), and any other fees deemed necessary for consideration and/or grant of this petition, to Deposit Account No. 14-1263.

The Statement that the Delay was Unintentional

Regarding requirement (3), the undersigned hereby states that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

The Need for a Terminal Disclaimer

Regarding requirement (4), Petitioners submit that a terminal disclaimer is not required. By the terms of 37 CFR § 1.137(c), a terminal disclaimer must accompany a petition of this type, "[i]n a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995." Since the instant application does not fall into any of these categories, Petitioners submit that a terminal disclaimer is not required.

In view of the foregoing, Petitioners submit that all of the requirements of a grantable petition have been met. Accordingly, Petitioners respectfully request that the Honorable Commissioner exercise his power and restore this application to pending status.

Early and favorable action is earnestly solicited.

Respectfully submitted,

NORRIS, McLAUGHLIN & MARCUS

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